

MTSA Regulations found at 33 CFR Subchapter H
Part 106-- Outer Continental Shelf (OCS) Activities

"The information in this document is for use as an aid to interpretation. Should anything in this document be in conflict with 33 CFR Subchapter H or CG policy, then Subchapter H and the CG policy determinations control."

Q. What OCS activities are affected by 33 CFR Part 106?

Ans. The requirements in Part 106 apply to owners and operators of any fixed or floating facility, including MODUs not subject to part 104 of this subchapter, operating on the Outer Continental Shelf (OCS) of the U.S. for the purposes of engaging in exploration, development, or production of oil, natural gas, or mineral resources that are regulated by 33 CFR subchapter N. See 33 CFR 106.105

Q. What is the impact to an OCS facility owner/operator who is subject to the MTSA regulations of 33 CFR part 106 and who fails to submit a required Facility Security Plan (FSP) to the Coast Guard or who must temporarily deviate from an approved FSP?

Ans. On or after July 1, 2004, an OCS facility owner and/or operator subject to the MTSA regulations of 33 CFR Part 106 is required to have a U.S. Coast Guard approved FSP plan approved in accordance with 33 CFR 106 subpart D in order to conduct MTSA applicable operations. An FSP that is approved by the cognizant U.S. Coast Guard District Commander is valid for 5 years from the date of its approval. The cognizant District Commander will issue an approval letter, as indicated in 33 CFR 106.115.

Failure to have fully implemented the approved FSP is a violation of the MTSA regulations and may result in a civil penalty against the owner/operator of the OCS facility. Under the MTSA Regulations, the cognizant District Commander may impose civil penalties that range up to \$25,000.00 per violation of the MTSA requirements. After July 1, 2004, non-compliant operators are subject to having their operation shut down until an approved FSP is in place. See 33 CFR 106.110, 33 CFR 106.410, 33 CFR 101.415 and NVIC 03-03 Change-1.

When an OCS facility must temporarily deviate from the requirements of 33 CFR 106, the OCS facility owner or operator must notify the cognizant District Commander, and either suspend operations or request and receive permission from the District Commander to continue operating. See 33 CFR 106.120.

OCS facilities built on or after July 1, 2004, must submit for approval, to the cognizant District Commander, an FSP 60 days prior to beginning operations. See 33 CFR 110 (c).

Q. Where can an OCS owner or operator find more specific guidance about compliance before a Coast Guard OCS facility inspector arrives to conduct a MTSA-ISPS compliance inspection?

Ans. The Coast Guard maintains a broad range of MTSA-ISPS regulation and policy information that is easily accessible via the internet at <http://www.uscg.mil/hq/g-m/mp/mtsa.shtml>. If you are unable to find the desired information on the website, a Coast Guard “MTSA-ISPS Help Desk” is staffed from 8:00 AM-8:00 PM EST, Monday–Friday. The Help Desk staff can be reached at 1-877-687-2243 or 202-366-9991. References 33 CFR Part 105 and NVIC 03-03 Change 1 are also available on the internet site listed above.

Q. If a OCS facility owner or operator is operating in accordance with the approved Facility Security Plan or Alternative Security Plan (FSP/ASP) but a Coast Guard facility inspector determines that a security measure(s) fails to adequately address an identified vulnerability, what is the procedure for requesting an amendment to the FSP? What actions will be required by the owner or operator in the interim?

Ans. A request to amend a previously approved FSP/ASP may be initiated by the OCS facility owner or operator or the cognizant District Commander may determine that an amendment is needed to maintain the OCS facility’s security. The cognizant District Commander will give the OCS facility owner or operator written notice and request that the OCS facility owner or operator propose amendments addressing any matters specified in the notice. The OCS facility owner or operator will have at least 60 days to submit the proposed amendment(s) to the cognizant District Commander. Until amendments are approved, the OCS facility owner or operator shall ensure temporary security measures are implemented to the satisfaction of the cognizant District Commander. Reference 33 CFR Part 106.415 (a) (1).

Q. If an OCS facility owner or operator, subsequent to having the FSP/ASP approved determines that an amendment to the security plan is necessary, what is the process for submission of the request? What actions will be required by the OCS facility owner or operator in the interim?

Ans. If a proposed amendment to a previously approved FSP/ASP is initiated by an OCS facility owner or operator, the request must be submitted to the cognizant District Commander at least 30 days before the amendment is to take effect unless the cognizant District Commander allows a shorter period for submission. The cognizant District Commander will approve or disapprove the proposed amendment in accordance with 33 CFR Part 106.410. Until amendments are approved, the facility owner or operator shall ensure temporary security measures

are implemented to the satisfaction of the cognizant District Commander. See 33 CFR 106.415 (a) (2) & 33 CFR 106.410.

Q. What is an OCS facility owner or operators responsibility relative to Maritime Security (MARSEC) Directives?

Ans. All OCS facility owners or operators subject to this part must comply with any instructions contained in a MARSEC Directive. See 33 CFR 101.405, 33 CFR 106.140, and 33 CFR 106.235.

Q. Does an OCS owner or operator have to implement security measures for access control?

Ans. Yes, in general, the owner or operator of an OCS facility must ensure implementation of security measures to deter the unauthorized introduction of dangerous substances and devices, including any device intended to damage or destroy persons, vessels, or the OCS facility. See 33 CFR 106.260.

Q. How does an OCS owner or operator handle access control measures with regards to official visits by law enforcement personnel?

Ans. 33 CFR 101.515(c) states “Vessel, facility, and OCS facility owners and operators must permit law enforcement officials in the performance of their official duties, who present proper identification in accordance with this Section, to enter or board that vessel, facility, or OCS facility at any time, without delay or obstruction. Law enforcement officials, upon entering or boarding a vessel, facility, or OCS facility, will, as soon as practicable, explain their mission to the Master, owner, or operator, or their designated agent.”

OCS owners/operators faced with any law enforcement official who declines to establish proper identity are encouraged to provide that official with a copy of the MTSA regulations and the relevant section on access control. If owners/operators have doubts about the authenticity of an official government identification document or credential or are concerned that denying access to an official may result in negative consequences, they should contact the cognizant Office of Marine Inspection, the cognizant Coast Guard District Commander, or appropriate agency head for guidance and assistance in effectively resolving the issue. See 33 CFR Part 104/105/106 and Coast Guard Policy Advisory #30-04 at <http://www.uscg.mil/hq/g-m/mp/mtsa.shtml> under “Policy Guidance.”

Note: For further guidance, an OCS facility owner/operator should contact their cognizant U.S. Coast Guard District Commander.

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